LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 5 LCR 78
Bangalore, dated 31st May 1978.

Ordered that the Central Excise (Second Amendment) Rules, 1978 published in Part II, Section 3 (i) of the Gazette of India Extra-ordinary dated 25th January, 1978 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

A. NEELAKANTARYA,
Under Secretary to Government,
Department of Law and Parliamentary Affaires.

GOVERNMENT INDIA
MINISTRY OF FINANCE
(Department of Revenue)
New Delhi, the 25th January 1978

Notification

Central Excise

G.S.R. 44 (E).—In exercise of the powers conferred by section 37 of the Central Excise and Salt Act, 1944 (1 of 1944), the Central Government hereby makes the following rules further to amend the Central Excise Rules, 1944, namely :—

1. (1) These rules may be called the Central Excise (Second Amendment) Rules, 1978.

(2) They shall come into force on the 1st day of February, 1978.

2. In the Central Excise Rules, 1944 (hereinafter referred to as the said rules), in rule 9B, —

(a) for sub-rule (1), the following sub-rule shall be substituted namely:—

"(1) Notwithstanding anything contained in these rules,—

(a) where the proper officer is satisfied that an assessee is unable to produce any document or furnish any information necessary for the assessment of duty on any excisable goods, or

(b) where the proper officer deems it necessary to subject the excisable goods to any chemical or any other test for the purpose of assessment of duty thereon, or

(c) where an assessee has produced all the necessary documents and furnished full information for the assessment of duty, but the proper officer deems it necessary to make further inquiry (including the inquiry to satisfy himself about the due observance of the conditions imposed in respect of the goods after their removal) for assessing the duty.

the proper officer may, either on a written request made by the assessee or on his own accord, direct that the duty leviable on such goods shall, pending the production of such documents or furnishing of such information or completion of such test or enquiry, be assessed provisionally at such rate or such value (which may not necessarily be the rate or price declared by the assessee) as may be indicated by him, if such assessee executes a bond in the proper form with such surety or sufficient security in such amount, or under such conditions as the proper officer deems fit, binding himself for payment of the difference between the amount of duty as provisionally assessed and as finally assessed.",

(b) in sub-rule (3), for the words "manufacturer, curer or owner of excisable goods", the word 'assesse' shall be substituted; and

(c) in sub-rule (5), for the words "manufacturer, curer or owner of the goods." the word "assessee" shall be substituted.

3 In rule 52A of the said rules, after sub-rule (1), the following Explanation shall be inserted, namely:—

"Explanation.—In this rule, and in any other rule; where the term "gate-pass" is used, it shall mean the assessee's own delivery invoice, challan or advice note or other document of similar nature wherein all the particulars contained in the proper form are shown."

4. In the said rules, for the existing rule 53, the following shall be substituted, namely:—

"53. Daily stock account.—(1) Every manufacturer shall maintain a stock account in such Form as the Collector may in any particular case or class of cases allow, and shall enter in such account daily —

(a) description of goods,

(b) opening balance,

(c) quantity manufactured,

(d) quantity deposited in the store-room, or other place of storage approved by the Collector under rule 47,

(e) quantity removed, after payment of duty from such store-room or other place of storage or from the place or permises specified under rule 9.

(f) quantity del vered from the factory without payment of duty for export or other purposes, and

(g) the rate of duty and the amount of such duty :

Provided that a manufacturer who furnishes a declaration in the Form annexed hereto may be exempted by the Collector from making 'nil' entries in the above account on days on which there is no production, receipt in store-room, or clearance of excisable goods.

Declaration

The Collector of Central Excise.....having permitted me/us, in relaxation of the provisions of rule 53 read with rule 226 of the Central Excise Rules, 1944, to make entries in the different openings of the stock account only on those dates when there is any transaction of the nature mentioned in the said rule in respect of the particular description/variety/size of packing of the excisable goods, I/We hereby solemnly declare that no such transaction has taken place on any date for which no entries are made in the stock account for the particular description/variety/size of packing of the goods. I/We hereby undertake to make regular daily entries in the said account in respect of each description/variety/size of packing of the goods in respect of each transaction mentioned in rule 53 of the said rules on the particular day.

Signature of Licensee

(2) The stock account maintained under sub-rule (1) shall, after being filled up, be preserved for a period of not less than five years and kept available for inspection by any officer.

(3) Unless specially exempted by the Collector by order in writing a manufacturer shall send all books of accounts as are maintained under sub-rule (1), before they are brought into use, for authention by the proper officer in such manner and at such time as the Collector may direct, and such books of account shall be deemed to be a stock account in the proper form."

5. In rule 173A of the said rules, at the end of sub-rule (1), the following provison and Explanation shall be inserted, namely:—

"Provided that from amongst the excisable goods as are specified under this sub-rule, the Central Government may, by notification in the Official Gazette, declare certain excisable goods as declared excisable goods and the provisions of this

Chapter shall, subject to such modifications as are indicated in relation to such declared goods in any rule under this Chapter, apply".

"Explanation.—The expression 'declared excisable goods', wherever it occurs, in this Chapter means the goods declared under this proviso."

6. In rule 173 B of the said rules,

(a) in sub-rule (1) for the words "Before removing excisable goods, every", the word "Every" shall be substituted; and

(b) after sub-rule (2), the following sub-rule shall be inserted, namely :—

"(2A) All clearances shall, subject to the provisions of rule 173CC, be made only after the approval of the list by the proper officer If the proper officer is of the opinion that on account of any inquiry to be made in the matter or for any other reason to be recorded in writing there is likely to be delay in according the approval, he shall, either on a written request made by the assessee or on his own accord, allow such assessee to avail himself of the procedure prescribed under rule 9B for provisional assessment of the goods"

In rule 173C of the said rules —

(a) in sub-rule (1), after the words "to the buyers", the following words "along with such other particulars as the Central Board of Excise and Customs or the Collector may specify" shall inserted ; and

(b) in sub-rule (2A)

(i) for the words "All clearances shall be made only after the approval of the prite list by the proper officer", the words, figures and letters ' All clearances shall, subject to the provisions of rule 173CC, be made only after the approval of the price list by the proper officer" shall be substituted ; and

(ii) for the words "on a written request made by the assesse", the words, either on a written request made by the assessee or on his own accord" shall be substituted.

8. After rule 173C of the said rules, the following rule shall be inserted, namely :—

"173CC. Assessee may remove goods in certain cases pending approval by the proper officer of the classification or price list.

An assessee—

(a) who is licensed for the first time for the manufacture of excisable goods or for the storage of such goods in his warehouse and has filed the classification list or, as the case may be, the price list, or

(b) who has manufactured new excisable goods the first time and has filed the classification list or as the case may be, the price list, or

(c) who desires to receive the price list previously approved by the proper officers and where the price list as so revised—

(i) leads to a value higher than that shown in the previously approved price list, or

(ii) leads levy of duty at a rate higher than that shown in the previously approved classification list

may, after he has filed the list or, as the case may be, the revised list, and pending approval of such list by the proper officer, remove such goods on payment of duty on the basis declared in the list or, as the case may be, the revised list, and thereupon the duty paid on such goods shall be deemed to be the duty assessed provisionally under rule 9B :

Provided that the facility in this rule to remove the goods pending approval of such list shall cease, if the assessee fails to execute, within 14 days of the first clearance under such list, a bond in the proper form for such amount with such security or surety as the proper officer may specify.

Explanation.—For the purpose of this rule,—

(i) 'classification list' means the list referred to in sub-rule (1) of rule 173B ; and

(ii) 'price list' means the price list referred to in sub-rule (1) of rule 173C."

9 In rule 173F of the said rules, after the figures and letter "173C", the figures and letter "or 173CC" shall be inserted.

10 In rule 173G of the said rules, —

(a) in sub-rule (1), after clause (ii) of the proviso, the following clause shall be inserted, namely :—

"(ii) the proper officer may allow an assessee who manufacturers one or more of the declared excisable goods, irrespective of the number of consignments removed by him in the previous calendar year, to make consolidated debit in the account-current at the end of the day towards payment of duty.",

(b) in sub-rule (2)—

(i) the words "or like document", "or like document or documents" and "or like documents" wherever they occur, shall be omitted ;

(ii) after clause (iv) of the proviso, the following clauses shall be inserted, namely :—

"(v) unless specially exempted by th Collector by order in writing, the assesse shall, before any book of gatepasses is brought into use, have each gatepass in such book authenticated by the proper officer, in such manner as the Collector may direct ;

(vi) where any correction, other than one relating to the date or the time of removal of the goods or to the description of the goods (including the variety of goods, the number and description of packages and the identification marks thereon) becom necessary in any gatepass before removal of the goods, such correc tion may be made by the assessee provided this is done neatly and over his dated signature in all copies of the gatepass ;

(vii) where the assessee after he has debited the duty due on the goods in the account current referred to in sub-rule (1), finds it necessary to cancel any gatepass, he shall send an intimation thereof in writing to the proper officer not later than the working day next following the day on which such gatepass is cancelled, and may thereupon take credit of the duty in that account." ; and

(c) the existing sub-rule (4) shall be re-numbered as clause (a) thereof, and—

(i) in clause (a), as so re-numbered, after the words "time to time require", the words "or permit, subject to such conditions as may be specified by him", shall be inserted ; and

(ii) after clause (a), as so re-numbered, the following clause shall be inserted, namely :—

"(b) Unless specially exempted by the Collector by order in writing, all books of accounts maintained under clause (a) shall be sent by him, before these are brought into use, for authentication by the proper officer in such manner and at such time as the Collector may direct ;"

"(c) In respect of any assessee, or class of assessees, the Collector may direct that all books of accounts maintained under clause (b), subject to what has been stated in clause

(b), shall be deemed to be the proper form for the respective purpose.''

11. In the said rules, the existing the rule 173K shall be renumbered as sub-rule (1) thereof and,—

(1) In sub-rule (1) as so renumbered—

(a) after the words "excisable goods", the words "other than the declared excisable goods" shall be inserted;

(b) for the words, brackets and figure beginning with "In sub-rule (3)" and ending with..... "quantity thereof", the following shall be substituted, namely :--

"In sub-rule (3) of rule 56A--

(a) in clause (i)—

(i) sub-clause (a), shall be omitted.

(ii) for sub-clause (c), the following sub-clause shall be substituted, namely :--

"(c) inform the proper Officer in writing in the proper form regarding receipt of each consignment of exise duty paid or the countervalling duty paid material or component part or finished product within twenty-four hours of its receipt to enable the proper officer to identify the material or component parts or finished product, as the case may be, and verify the actual quantity thereof within forty-eight hours of receipt of the aforesaid information."

(2) after sub-rule (1) as so renumbered, the following sub rule shall be inserted, namely :—

"(2) In relation to the declared excisable goods, the modifications to rule 56A specified below sub-rule (1) shall apply except that sub-clause (c) of clause (i) of sub-rule (3) of the said rule 56A, shall be substituted as follows namely :—

"(e) Inform the proper officer in writing in the proper form regarding receipt of each consignment of excise duty paid or the countervailing duty paid material or component parts or finished product within twenty-four hours of its receipt to enable the proper officer, if he deems it necessary, to identify the material or component parts or finished product as the case may be, and verify the actual quantity thereof."

12. In sub-rule (1) of rule 173-L of the said rules,—(a) in clause (ii) of the proviso, after the words "within twenty-four hours of such re-entry", the words, "to enable the proper officer to verify the particulars of such goods within forty-eight hours of receipt of the information shall be inserted, and

(b) after the proviso, the following proviso shall be inserted, namely :—

"Provided further that in relation to the declared excisable goods, for clause (ii) of the first proviso, the following clause shall be substituted, namely :—

"(ii) the assessee gives information of the re-entry of each consignment of such excisable goods into the factory to the proper officer in writing in the proper from within twenty-four hours of such re-entry ;".

13. - In sub-rule (1) of rule 173-M of the said rules—(a) in clause (ii) of the proviso, after the words, "within twenty-four hours of such re-entry" the words "to enable the proper officer to verify the particulars of such goods within forty-eight hours of receipt of the information" shall be inserted ; and (b) after the proviso, the following proviso shall be inserted, namely :—

"Provided further that in relation to the declared excisable goods, for clause (ii) of the first proviso, the following claus shall be substituted, namely :—

"(ii) the assessee gives information of the re-entry of each consignment of such excisable goods into the factory to the proper officer in writing in the proper form within twenty-four hours of such re-entry ;".

14. In the said rules, to sub-rule (2) of rule 185 as substituted by rule 173-O, the following proviso shall be added, namely :—

"Provided that the payment of the appropriate charges determined by the Collector shall only be required in cases where the examination of goods is to be carried out before ten O'Clock in the forenaon, or after six O'Clock in the after-noon.

(No. 10/78-CE)

[No. 10/78-C.E.-F. No. 318/1/76-CX. 10/SRP.]

N. C. JAIN,
Under Secretary

Notification No. LAW 28 LCA 78
Bangalore, dated 9th June 1978.

Ordered that the Banking Service Commission (Repeal) Act, 1978 (No. 20 of 1978) published in Part II, Section 1 of the Gazette of India, *Extraordinary* dated 18th May, 1978 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka

A. NEELAKANTARYA,
Under Secretary to Government.
Dept. of Law and Parliamentary Affairs.